

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

BIOPLUS SPECIALTY PHARMACY SERVICES, INC.,)	
)	
Plaintiff,)	<u>NOTICE OF MOTION</u>
)	
v.)	Civil Action No. 1:18-cv-03370-WFK-ST
)	
B.O.P. PHARMACY, INC.,)	<u>JURY TRIAL DEMANDED</u>
)	
Defendant.)	ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE, that Plaintiff BioPlus Specialty Pharmacy Services, Inc. (“BioPlus”) will apply to the Honorable William F. Kuntz in the Courthouse located at 225 Cadman Plaza East, Brooklyn, New York 11201, at a date and time to be determined by the Court, for an Order preventing the continued diversion of electronic prescriptions intended for Plaintiff to Defendant B.O.P. Pharmacy, Inc. (“B.O.P.”). Specifically, Plaintiff seeks an Order that requires the following:

(1) that Defendant immediately cease using the BIOPLUS mark, the term Bio Plus, or any other designation or mark likely to cause confusion with the BIOPLUS Mark in their listing with the National Council for Prescription Drug Program, Caremark®, SureScripts®, and anywhere else in commerce; and

(2) that Defendant immediately cease the use of any advertisements using the trademark or trade name BIOPLUS or any designations or marks likely to cause confusion with the BIOPLUS Mark.

This Motion is supported by a contemporaneously-filed Memorandum in Support and the declarations of (i) Elvin Montanez, Chief Operating Officer of BioPlus (the “Montanez Dec.”);

(ii) Amar Patel, Pharmacy Center Manager of a BioPlus owned pharmacy in Newburgh, NY (the “Patel Dec.”); and (iii) Mark Benn, Regional Clinical Liaison of BioPlus (the “Benn Dec.”).

BioPlus hereby requests oral argument on this Motion for Preliminary Injunction.

Dated: July 6th, 2018.

Respectfully submitted,

/s/ Hal K. Litchford

Hal K. Litchford, Esquire
Admitted pro hac vice
Baker, Donelson, Bearman, Caldwell &
Berkowitz, PC
200 South Orange Avenue, Suite 2900
Orlando, FL 32801
Phone: 407-422-6600
Fax: 407-841-0325
Email: hlitchford@bakerdonelson.com

/s/ Emily R. Billig

Emily R. Billig, Esquire
Admitted pro hac vice
Baker, Donelson, Bearman, Caldwell &
Berkowitz, PC
100 Light Street
Baltimore, MD 21202
Phone: 410-862-1089
Fax: 443-263-4189
Email: ebillig@bakerdonelson.com

/s/ Jura Zibas

Jura C. Zibas, Esquire
Wilson Elser Moskowitz Edelman
& Dicker LLP
150 E. 42nd Street
New York, New York 10017
Telephone: (212) 490-3000
Facsimile: (212) 490-3038
Email: Jura.Zibas@wilsonelser.com

*Attorneys for Plaintiff BioPlus Specialty
Pharmacy Services, Inc.*